

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation ("Recommendation") filed on August 7, 2019, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 16.) In the Recommendation, the Magistrate Judge recommends that Plaintiff's Motion for Judgment Reversing or Modifying the Decision of the Commissioner of Social Security, (Doc. 11), be denied, that Defendant's Motion for Judgment on the Pleadings, (Doc. 13), be granted, and that

¹ The United States Senate confirmed Andrew M. Saul as the Commissioner of Social Security on June 4, 2019, and he took the oath of office on June 17, 2019. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Andrew M. Saul is substituted for Nancy A. Berryhill as the Defendant in this suit. Neither the Court nor the parties need take any further action to continue this suit by reason of the last sentence of section 205(q) of the Social Security Act, 42 U.S.C. § 405(q).

this action be dismissed with prejudice. The Recommendation was served on the parties to this action on August 7, 2019. (Doc. 17.) Counsel for Plaintiff filed timely objections, (Doc. 18), to the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 16), is **ADOPTED**. **IT IS FURTHER ORDERED** that Plaintiff's Motion for Judgment Reversing or Modifying the Decision of the Commissioner of Social Security or Remanding the Cause for a Rehearing, (Doc. 11), is **DENIED**, that Defendant's Motion for Judgment on the Pleadings, (Doc. 13), is **GRANTED**,

that the Commissioner's decision is **AFFIRMED**, and that this action be dismissed with prejudice.

A judgment dismissing this action will be entered contemporaneously with this Order.

This the 11th day of September, 2019.

William L. Osten, Jr.
United States District Judge